

REMARKS

With regard to paragraph 1 of the subject Office Action, claims 30-34, 36 and 74-85 have been withdrawn.

In the subject Office Action, dependent claims 13, 16-20, 55-59, 66, 69-73 were rejected based on 35 U.S.C. 112. In response, these claims have been cancelled from the application. Applicants respectfully submit that all claims are now proper under 35 U.S.C. 112.

The Examiner has also rejected claims 11-20, 51-59, 64-73 and 86-88 based under 35 U.S.C. 103(a) as being unpatentable over Tarbox et al. (U.S. Patent Application Publication No. 2002/0169701). Applicants respectfully traverse the Examiner in this regard.

In making his rejections of independent claims 11, 51, 64 and 86-88, the Examiner relies on paragraphs 44, 45, 66 and 73 of Tarbox et al. Applicants respectfully submit that these paragraphs, and remaining paragraphs of Tarbox et al., only peripherally mention that human capital may be taken into consideration when determining Benefit Plan investment allocations. In contrast, the invention recited by independent claims 11, 51, 64 and 86-88 *maps out how* human capital may be used to rebalance a portfolio of an investor.

While paragraph 44 of Tarbox et. al does suggest determining the human capital of an investor, it teaches a “criterion used for selecting the initial Benefit Plan investment allocation is based on *cash flow needs* and Human Capital” (emphasis ours). In contrast, independent claims 11, 51, 64 and 86-88 of the present application each recite allocating assets in an investment portfolio based the sum of human capital and *financial worth* of an investor. As a result, paragraph 44 of Tarbox et al. actually teaches away from the method and system recited by independent claims 11, 51, 64 and 86-88.

In paragraph 45, Tarbox et al. merely makes the observation that it is “reasonable for younger employees to hold an all-stock investment Benefit Plan allocation” but that as they “become older, the proportion of human capital to total wealth becomes smaller” so that, “over time, the Benefit Plan investment allocation needs to be gradually adjusted to become less aggressive.”

Paragraph 66 of Tarbox et al. merely suggests providing an automatic allocation of investment assets in a Benefit Plan based on the individual characteristics of the participants and a formula established by an Independent Expert. Applicants respectfully submit that this clearly is not the same thing as dividing the *human capital* of an investor into at least first and second investment types, as recited by independent claims 11, 51, 64 and 86-88.

As a result, paragraphs 44, 45 and 66 of Tarbox et al., as well as the remaining paragraphs of Tarbox et al., fail to teach the concept of dividing the human capital of an investor into at least first and second investment types, as recited by independent claims 11, 51, 64 and 86-88.

Paragraph 73 of Tarbox et al. merely discloses the concept of optimally allocating investment assets for individual investors based on their unique facts and circumstances and monitoring and adjusting the allocations over time. Paragraph 73 of Tarbox et al. stops way short of teaching how human capital would be used in such a practice, let alone disclosing the approach recited in independent claims 11, 51, 64 and 86-88 of the present application.

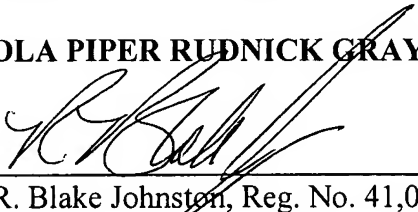
Indeed, the paragraphs recited from Tarbox et al. only peripherally disclose the concept of human capital and that it may be considered when determining the investment allocations in a Benefit Plan. In contrast to independent claims 11, 51, 64 and 86-88, Tarbox et al. does not teach *how* human capital may be used when automatically rebalancing a portfolio of an investor.

As a result, Applicants respectfully submit that independent claims 11, 51, 64 and 86-88, and thus the claims that are dependent thereon, are patentable over Tarbox et al.

In view of the foregoing amendments and remarks, it is believed that the application is in condition for allowance and such action is respectfully requested. If the Examiner believes that a telephone conference would advance the prosecution of the case, it is requested that the undersigned counsel be contacted for that purpose.

Respectfully submitted,

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